



COMHAIRLE CONTAE SHLIGIGH
ÁRAS CONTAE COIS ABHAINN SLIGEACH

SLIGO COUNTY COUNCIL
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1st November, 2024

Sligo County Council Ref: ED544

An Bord Pleanála,
64 Marlborough Street,
Dublin 1 D01V902

AN BORD PLEANÁLA	
LDG- <u>075 969-24</u>	
ABP- _____	
04 NOV 2024	
Fee: € <u>110.00</u>	Type: <u>CO.</u>
Time: _____	By: <u>POST</u>

Re: Referral under Section 5 (4) of the Planning and Development Act 2000 (as amended)
The use of Multi-unit Building at Mulligan Court, Connaghton Road Sligo

Dear Sir/Madam,

Sligo County Council wishes to refer an application for a declaration of development or exempted development to An Bord Pleanála in accordance with Section 5(4) of the Planning and Development Act 2000, as amended.

The application was made to Sligo County Council on 13 September 2024 by John Molloy. The description of the development given within the application was *"the use of the S50 multiunit building previously occupied by students during the academic years since 2007 for accommodating asylum seekers instead of students"* at Mulligan Court, Connaughton Road, Sligo, Co Sligo. The application goes on to state it is considered that a *"material change of use is on-going in the s50 section of this multiunit development in that the previous use planning permission covered student accommodation in the academic year"*. It is noted in the applicant is not the full owner of the development but the owner of only one unit (number 17) and which they let to students. The application notes that remaining units are in different ownership under folio S30750F.

The planning authority has not considered a Section 5 declaration of the same nature previously, specifically if the use of a development approved as student accommodation, and thus of a commercial nature, to provide accommodation for asylum seekers/protected persons, is a material change of use. The planning authority is also not aware of any previous declaration being made by An Bord Pleanála of the same nature (i.e. student accommodation to accommodation for asylum seekers/protected persons).

Enclosed with this referral request is a report of the planning authority (dated 7th October 2024). This details the planning history of the site as approved (SCC ref: 03/70139 as varied by ref: 04/145; ABP Ref: PL 77.211144). This was for the provision of 45 units of accommodation, and which allowed for uses of these units for S50 student accommodation/social housing. The description of the development given in the application for a declaration is for use of these units of accommodation for accommodating asylum seekers/protected persons instead of students and notes that this has occurred since 2007. It is the understanding of the planning authority that the use of these units for providing accommodation for asylum seekers/protected persons has now commenced. The report considers the nature of the former use and with reference to the planning considerations at the time of the approval for use as student accommodation. The report details relevant provision of the County Development Plan and legislation.

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The planning authority has considered other relevant Section 5 determinations made by the Bord but concludes that none relate to the current/former use of student accommodation, as a commercial use as opposed to a residential use, for accommodating asylum seekers/protected persons is or is not development or is or is not exempted development. The report of the planning authority concludes that under the circumstances the matter shall be referred to the Bord as provided for under the relevant legislation.

It is considered that the above and the included report of Sligo County Council (dated 7th October 2024) constitutes the full grounds of referral in line with section 127(1)(d) of the Planning and Development Act 2000 (as amended).

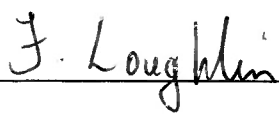
For clarity and with reference to the points at Section 127(1) of the Planning and Development Act 2000 (as amended):

- (a) The referral is made in writing
- (b) The referral is made by Sligo County Council
- (c) The subject matter of the referral is if the *"the use of the S50 multiunit building previously occupied by students during the academic years since 2007 for accommodating asylum seekers instead of students"* at Mulligan Court, Connaughton Road, Sligo, Co Sligo is or is not development and is or is not exempted development.
- (d) As noted above, the full grounds of the referral and the reasons, considerations and arguments on which they are based are set out within this letter and within the report of the Planning Authority dated 7th October 2024.
- (e) *Not applicable given this is a referral.*
- (f) A cheque for the fee for the referral (€110) is enclosed.
- (g) The referral is made within the prescribed period.

Enclosed with the referral letter are:

- i. The report of the Planning Authority of 7th October 2024, concluding that the matter should be referred to ABP pursuant to Section 5(4) of the Planning and Development Act 2000 (As amended).
- ii. A copy of the application, including the application form and all enclosed plans, made to Sligo County Council of 13th September 2024.
- iii. A copy of the planning permission relevant to the site being the decision of ABP reference PL77.211144.
- iv. Cheque €110 dated 1/11/2024 being the Fee for Referral

Yours faithfully,

PP 

Siobhan Gillen
ADMINISTRATIVE OFFICER
PLANNING SECTION

Sligo County Council Planning Department

Memo: Exempted Development

To: Ian Bailey, Senior Executive Planner

From: Mairéad O'Hara, Executive Planner

Re: ED 544

Nature of application:

The applicant has applied for a certificate of exempted development from the Planning Authority as to whether the following works requires planning permission or not.

The nature and extent of the works is stated as being:

The use of the S50 multi-unit building previously occupied by students during the academic year since 2007 for accommodating asylum seekers instead of students.

Site location and description:

The building is a multiunit building at Milligan Court, Connaughton Road, Sligo

The building is not a Protected Structure.

Relevant Planning Histories

03/70139: a mixed development at Connaughton Road, Sligo. The development is to consist of the clearing of existing site and the construction of office space/doctor's surgery: 27 no. apartments/townhouses (including a caretaker's apartment) whose use is to include Section 50 student accommodation and social housing; a laundry room; a central storage room, substation and seminar room - all with associated car parking (including one level of enclosed parking), site services and landscaping.

Development Plan

The provisions of the SEDP 2010-2016 have now been incorporated into the Sligo County Development Plan 2017-2023.

As per the Sligo and Environs Development Plan 2010-16, the subject site is located on lands zoned as C1- town centre uses The building is located on lands zoned C1 with the main objective being to *Protect and upgrade the retail function, supported by a range of complementary functions, within the city's commercial/retail core and encourage the establishment of commercial/retail activities in the areas reserved for the centre's expansion.*

Legislation:

Planning and Development Act 2000 (as amended):

Section 2 defines "Works" as *any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal and, in relation to a protected structure or proposed protected structure, includes any act or operation involving the application or removal of plaster, paint, wallpaper, tiles or other material to or from the surfaces of the interior or exterior of a structure.*

Section 3 states that "development" means, *except where the context otherwise requires, the carrying out of any works on, in, over or under land or the making of any material change in the use of any structures or other land.*

Section 4 (1) (h) - *The following shall be exempted development for the purposes of this Act – development consisting of the carrying out of works for the maintenance, improvement or other alteration of any structure, being works which affect only the interior of the structure or which do not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure or of neighbouring structures.*

Planning and Development Regulations 2001 (as amended):

Part 2, Article 9 (1) (a) (i)

9. (1) Development to which article 6 relates shall not be exempted development for the purposes of the Act

(a) if the carrying out of such development would–

(i) contravene a condition attached to a permission under the Act or be inconsistent with any use specified in a permission under the Act,

Habitats Directive Assessment - Screening

The subject site is development on an existing developed site. Having regard to the nature of the development on a developed site, it is considered that the proposed development would not be likely to have a significant effect individually, or in-combination with other plans and projects, on the Natura 2000 network and appropriate assessment is not therefore required.

Environmental Impact Assessment – Screening

Having regard to the nature and scale of the proposed development, the nature of the receiving environment and proximity to the nearest sensitive location, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

Assessment:

Under Part 5 of Planning and Development Act 2000 (as amended) it states as follows: *If any question arises as to what, in any particular case, is or is not development or is or is not exempted development within the meaning of this Act, any person may, on payment of the prescribed fee, request in writing from the relevant planning authority a declaration on that question, and that person shall provide to the planning authority any information necessary to enable the authority to make its decision on the matter’.*

The question asked in this instance is for the *‘The use of the S50 multiunit building previously occupied by students during the academic year since 2007 for accommodating asylum seekers instead of students’.*

In the application form, under the section ‘reason why proposed development/development is considered exempt or not’ the applicant states *‘I consider a material change of use is on-going in the s50 section of this multiunit development in that the previous use planning permission covered student accommodation in the academic year’.*

(Section 50 of the Finance Act, 1999 provided for a scheme of tax relief for rented residential accommodation for third level students).

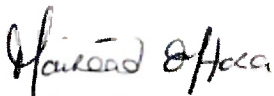
The Planning Authority notes the decision by the Bord (Ref ABP-307077-20) where it was determined that the *use as apartments, including residential accommodation for protected persons, is not development.* While this is taken on board, the Planning Authority could consider that the

provision of student accommodation is more of a commercial form of the provision of residential units which were in keeping with the standards set out in the document 'Guidelines on Residential Developments for Third Level Students (Department of Education and Science, 1999)', and not as per residential accommodation as set out under Ref ABP-307077-20.

Therefore the Planning Authority are unable to determine the whether '*The use of the S50 multi-unit building previously occupied by students during the academic year since 2007 for accommodating asylum seekers instead of students*' is or is not development and would it comprise of a material for planning purposes.

Conclusion

In line with Section 5(4) of the Planning and Development Act 2000 (as amended), Sligo County Council hereby refers the attached to the Board, being a request for a declaration on development and exempted development (Section 5) and which was submitted to Sligo County Council on 13th September 2024.

Signed: 

Máiréad O'Hara

Executive Planner

02/10/2024



Ian Bailey

Senior Executive Planner

07/10/2024



SLIGO COUNTY COUNCIL
Comhairle Chontae Shligigh

APPLICATION FORM FOR DECLARATION ON DEVELOPMENT AND EXEMPTED DEVELOPMENT
(Planning & Development Act 2000 (as amended)
(Section 5)

Address: Sligo County Council Planning Section, City Hall, Quay Street, Sligo	Tel: 071 9114455 or 071 9114458 Fax: 071 9114499	E-mail: planning@sligococo.ie Website address: www.sligococo.ie
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Name of Applicant: John Molloy
(Address must be supplied at end of this form)

Description of Development/ Proposed Development for which a Declaration is Sought:
The use of the S50 NUT 71 unit building previously occupied by students during the Academic year since 2007 for accommodation as a guest house instead of students

Location, townland or postal address of Development / Proposed Development:
NUT 71 Unit Building at Milligan Court Carragh Road Sligo

Interest of Applicant in Development/Proposed Development:

Owner [] Occupier [] Other [x] (Tick Appropriate box ✓)

If Applicant is the occupier or other please state interest in Development.

I own unit 17 in the S50 development since 2006 and the property is let to students. There is no name of a company in place for this development as required under the regulations.

Name of occupier, if different from applicant: _____
(Address to be supplied at end of this form)

If applicant is not the legal owner please state the name of the owner: The company owning most of the S50 properties (ie) Folio 30899F is Eastern Ltd

The remainder of the units including S50 are owned by Brian Capital Folio 530750F
(Address must be supplied at end of this form)

Name of person / agent acting on behalf of the applicant, if any: _____
(Address to be supplied at end of this form)

Reason why proposed development/development is considered exempt or not:
I consider that a material change of use is ongoing in the S50 Section of the NUT 71 Unit development in that the previous use Planning Permission covered student accommodation for the Academic year

Please indicate when development was carried out (if applicable): _____

Documents to be included with this application form (please tick ✓)

Site location map [x] Site layout map [x] Floor plans & elevations Fee (€80) [x]
Scale 1:2500 Scale 1:500

I hereby declare that the information given on this form is correct.

& all plans have documents & maps supplied

Applicant Signature: John Molloy

Date: 12/9/2024

ADDITIONAL CONTACT INFORMATION
NOT TO BE MADE AVAILABLE WITH APPLICATION

Please note:

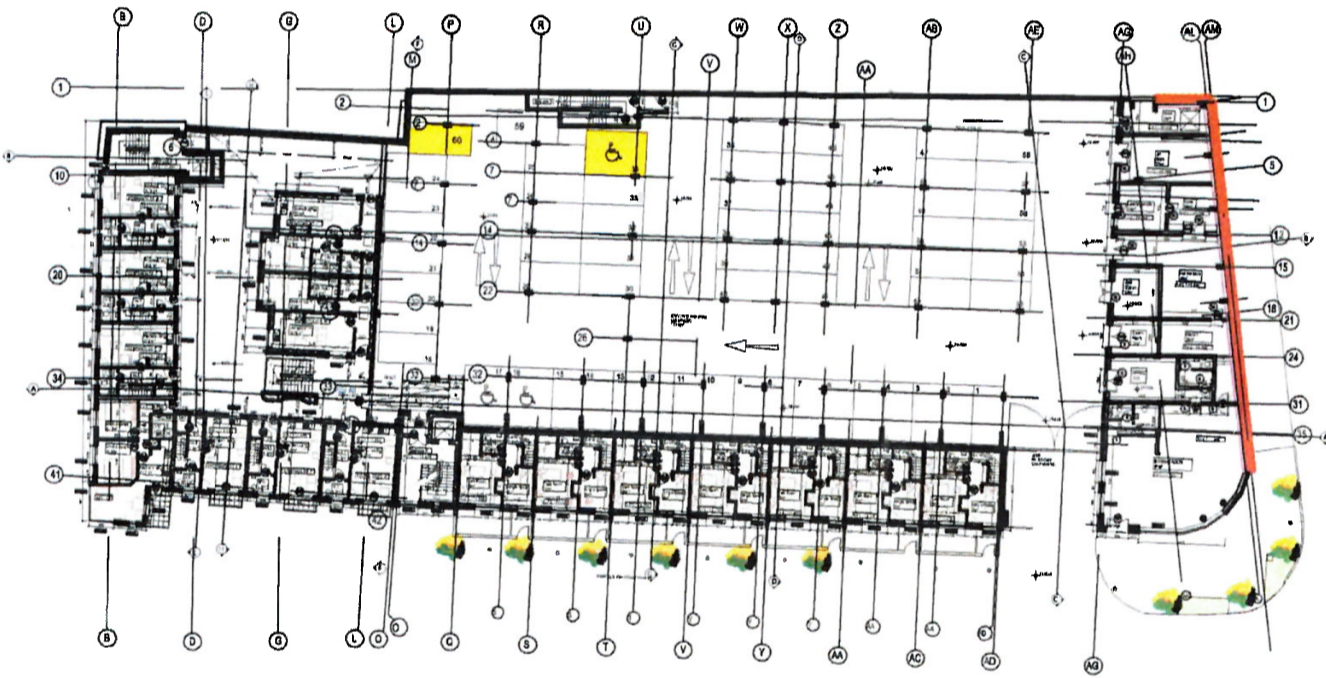
- The applicant's address **must** be submitted on this page.
- If the applicant/agent wishes to submit additional contact information, this may be included here.
- This page will not be published as part of the Application.

1. Applicant Name: JOHN MOLLOY	
Address (required)	AUGHAMORE NEAR SLIGO
Telephone No.	0872568139
Email Address	JOHN.MOLLOY@frank.com
Fax No.	N/A

2. Occupier if different from applicant:	
Address: (required)	
Telephone No.	
Email Address (if any)	
Fax No. (if any)	

3. Owner (required where applicant is not the owner):	
Address: (required)	(2) (1) East View Ltd Company No 09783516 53 Rodney St Limerick, Co. Limerick L19ER d. Mikhajon Court, Conception Rd. Sligo BRAVA Capital Ltd Company Reg DE 026417 15th of Nov Elm Tree House, Elm Tree Rd One Lane, 15th of Nov 1931AH d. Mikhajon Court Conception Rd. Sligo (Solicitor Peter Martin Sk10)
Telephone No.	
Email Address (if any)	
Fax No. (if any)	
Mrs Nicholas Wright Director of East View (NICKI.WRIGHT@30)	

4. Person/Agent acting on behalf of the Applicant (if any):	
Address: (required)	
Telephone No.	
Email Address (if any)	
Fax No. (if any)	
Should all correspondence be sent to the above address? (please tick appropriate box ✓) (Please note that if the answer is 'No', all correspondence will be sent to the Applicant's address)	
Yes	[✓]
No	[]



NOTE

CARPARK SPACES 34 & 60 TO BE ALLOCATED TO UNIT No17 WHICH IS TO BE RETAINED BY J MOLLOY



NOTICE OF COPYRIGHT AND LIABILITY: The user of this drawing shall be deemed to be responsible for the accuracy of the information contained therein, and shall be liable for any loss or damage resulting from the use of this drawing. The user shall also be deemed to be responsible for the accuracy of the information contained therein, and shall be liable for any loss or damage resulting from the use of this drawing. The user shall also be deemed to be responsible for the accuracy of the information contained therein, and shall be liable for any loss or damage resulting from the use of this drawing.

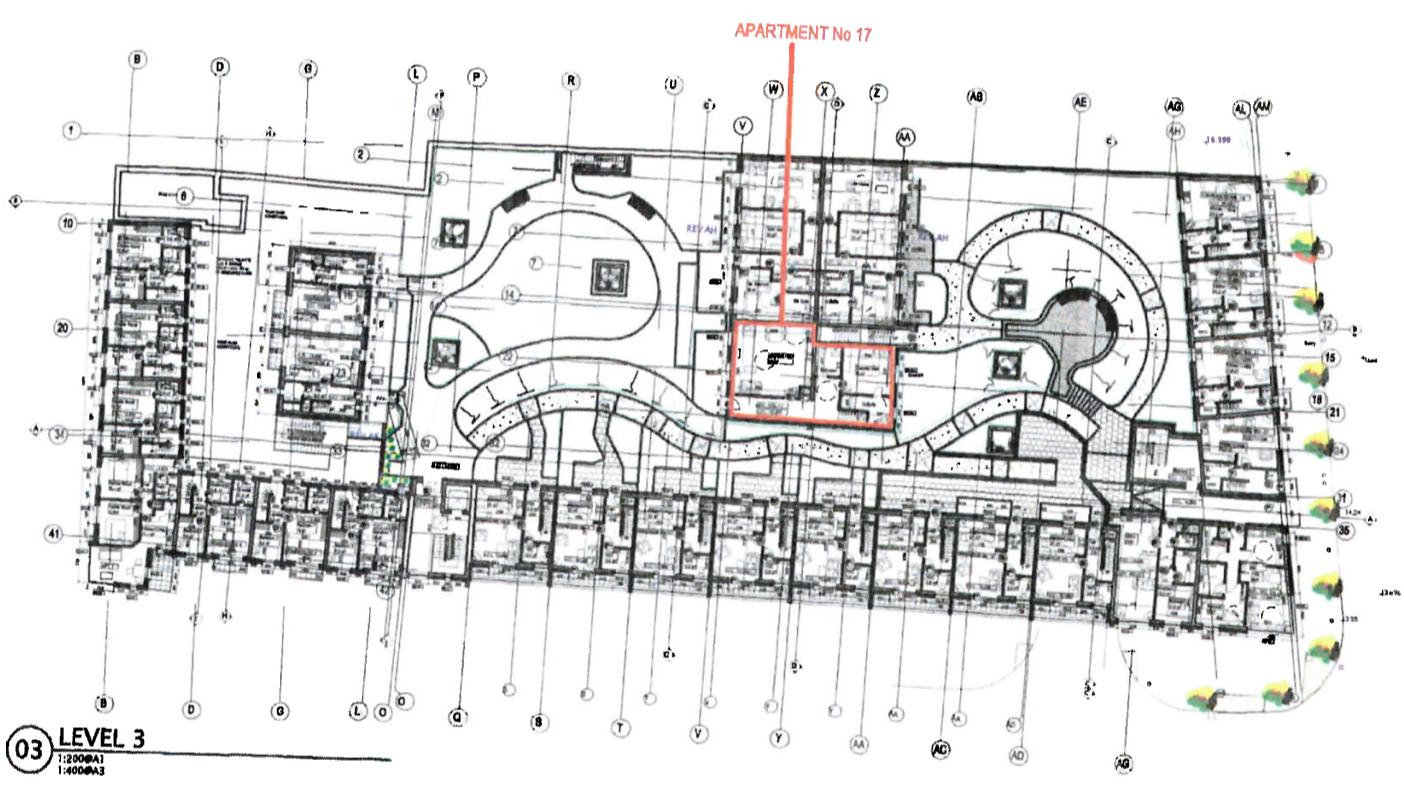
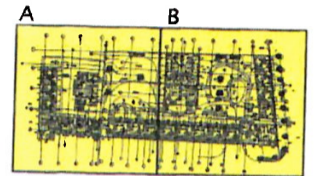
No.	Date	Comments

No.	Date	Comments

Scale: 1:200
 Drawing Purpose: CONSTRUCTION
 Project: DEVELOPMENT AT CONNAUGHTON ROAD
 Client: J. MOLLOY
 Date: JULY '05
 Drawn by: AC
 Checked by: JON

File Ref: 8.04 LEVEL 2 PLAN
 Project No: 05017
 Drawing No: 8006
 Rev: AB

OKM architects project managers interior designers
 17 Castle Road, Malabar, Dublin 8
 T: +353 (0)1 452 1111 F: +353 (0)1 452 1111
 P: +353 (0)1 452 1111 E: info@okm.ie



03 LEVEL 3
1:200(A)
1:400(A3)

DISCLAIMER: This drawing is intended to be used as a guide only. It is not a contract document. The client is responsible for ensuring that the drawing is used for the intended purpose. The architect is not responsible for any errors or omissions in the drawing. The client is responsible for ensuring that the drawing is used for the intended purpose. The architect is not responsible for any errors or omissions in the drawing.

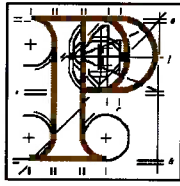
NO.	REVISION	DATE	BY	CHECKED
1	ISSUED FOR PERMIT	2005/07/05	AF	JON
2	ISSUED FOR CONSTRUCTION	2005/07/05	AF	JON

Scale: 1:100
Drawing Purpose: CONSTRUCTION
Project: DEVELOPMENT AT CONNAUGHTON ROAD
Client: J. MOLLOY
Date: JULY '05

8 04 LEVEL 3 PLAN
Rd No: 05017
Plot No: 8007 AI

OKM PROJECTS PROJECT MANAGERS INTERIOR DESIGNERS

An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2004

Sligo Borough

Planning Register Reference Number: 04/145

An Bord Pleanála Reference Number: PL 77.211144

APPEAL by John Molloy care of O'Connor, Keogh and Mulcaire Limited Architects of Stephen House, Stephen Street, Sligo against the decision made on the 11th day of February, 2005 by Sligo Borough Council to refuse permission in accordance with plans and particulars lodged with the said Council.

PROPOSED DEVELOPMENT: Variations to previously granted planning permission (planning register reference number 139/03) for a mixed development which consisted of the clearing of existing site and the construction of office space; 27 number apartments/townhouses (including a caretaker's apartment) whose use is to include Section 50 student accommodation and social housing; a laundry room; a central storage room; substation and seminar room – all with associated car parking (including one level of enclosed parking), site services, and landscaping. The proposed variations comprise the omission of office space; provision of 18 number additional apartments/townhouses (including one number caretaker's apartment) – bringing the total number to 45 units, whose uses are to include Section 50 student housing/social housing; the lowering of the level of the access deck to dwellings; revisions to elevations to Connaughton Road/Ard na Greine; provision of additional storey to previously granted two-storey block at deck level, all at the corner of Connaughton Road and Ard na Greine, Sligo.

DECISION

GRANT permission for the above proposed development in accordance with the said plans and particulars based on the reasons and considerations under and subject to the conditions set out below.

REASONS AND CONSIDERATIONS

Having regard to the provisions of the current Sligo and Environs Development Plan and the zoning of the site, the Residential Density Guidelines for Planning Authorities issued by the Department of the Environment and Local Government in September, 1999 and the pattern of existing and permitted development in the vicinity, it is considered that, subject to compliance with the conditions set out below, the proposed development would not constitute a substandard form of development or over-development of the site and would not seriously injure the amenities of the area or of property in the vicinity. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

CONDITIONS

1. The development shall be carried out in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars received by An Bord Pleanála on the 3rd day of March, 2005, except as may otherwise be required in order to comply with the following conditions.

Reason: In the interest of clarity.

2. This permission is in respect of a development incorporating a total of 33 number residential units. Prior to commencement of development, revised details and drawings [including a complete set of accurate drawings showing consistency in site layout plans, plans and elevations of the proposed development and site sections] incorporating the following amendments into the proposed development shall be submitted to, and agreed in writing with the planning authority:
 - (a) omission of the six number single aspect units as proposed in First Party grounds of appeal submissions as received by An Bord Pleanála on the 3rd day of March, 2005,
 - (b) omission of unit numbers 22, 23, 30, 31 and 32 and incorporation of resultant area into the proposed landscaped courtyard,
 - (c) amalgamation of units 26 and 27 into one unit and the incorporation of the proposed access stairs (shown on the drawings to the west of unit 27) into the main envelope of the building, and
 - (d) inclusion of a 1.8 metre high screen on the northern edge of the balcony to unit number 37.

Reason: In the interest of the amenities of the area and the amenities of the potential occupiers of the development.

3. Prior to commencement of development, details of the materials, colours and textures of all the external finishes to the proposed development and its hard surfaces shall be submitted to, and agreed in writing with the planning authority.

Reason: In the interest of orderly development and the visual amenities of the area.

4. All service cables associated with the proposed development, (such as electrical, communal television, telephone and public lighting cables) shall be run underground within the site.

Reason: In the interest of orderly development and the visual amenities of the development.

5. Prior to commencement of development, detailed drawings, including sections showing all finished floor levels in relation to existing and proposed ground levels of both the site and the surrounding land and buildings, shall be submitted to, and agreed in writing with the planning authority.

Reason: In the interest of orderly development and to ensure a satisfactory relationship between the various components of the development and between the site and surrounding land and buildings.

6. Prior to commencement of development, a Construction Management Plan shall be submitted and agreed in writing with the planning authority. This plan shall provide details of the phasing of the works and of intended construction practice for the development, including works, hours of operation, a traffic management plan, noise and dust mitigation measures, wheel washing facilities, and details of construction lighting.

Reason: In the interest of protection of the environment and the amenities of the area.

7. Prior to commencement of development, full details including height, appearance and materials of all the means of enclosure and retaining walls to be erected around and within the site shall be submitted to and agreed in writing with the planning authority. In particular, this shall include details of the boundary treatment of the northern boundary of the site.

Reason: In the interest of visual and residential amenity and the amenities of adjoining lands.

8. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services. Details in this regard shall be submitted to, and agreed in writing with the planning authority prior to commencement of development.

Reason: In the interest of orderly development and the proper planning and sustainable development of the area.

9. Prior to commencement of development, the developer shall submit, and obtain the written agreement of the planning authority to, a plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials, and for the ongoing operation of these facilities.

Reason: To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.

10. Within eight weeks of the date of this order, the developer shall enter into an agreement with the planning authority under Section 96 of the Planning and Development Act, 2000 (as amended) in relation to the provision of social and affordable housing, in accordance with the requirements of the planning authority's housing strategy, unless, before the expiry of that period, the said developer shall have applied for and been granted an Exemption Certificate under Section 97 of the Planning and Development Act, 2000.

Reason: To comply with the requirements of Part V of the Planning and Development Act, 2000 (as amended).

11. Public lighting shall be provided in accordance with a scheme, details of which shall be submitted to, and agreed in writing with the planning authority prior to commencement of development.

Reason: In the interest of amenity and public safety.

12. Prior to the commencement of development, full details of the construction and layout of the proposed new access onto the Connaughton Road and the layout of the site's frontage with this road, including proposals for off-street parking, shall be submitted to, and agreed in writing with the planning authority. These details shall include provisions for ensuring that vehicles can enter and exit the site without obstruction to the flow of traffic on Connaughton Road.

Reason: In the interest of traffic and pedestrian safety.

13. Prior to the commencement of development, a parking scheme shall be submitted to, and agreed in writing with the planning authority, demonstrating the allocation of parking spaces within the scheme to specific units, including measures proposed to prevent unauthorised parking. Furthermore, the scheme shall provide for the 29 car parking spaces required for the site immediately to the west pursuant to condition number 5 of this order.

Reason: To ensure adequate parking provision is available to serve the proposed and adjoining development in the interest of the amenities of the proposed occupiers of these developments and traffic safety.

14. Prior to commencement of development, a management scheme providing adequate measures relating to the future maintenance of open spaces, roads, parking and communal areas in a satisfactory manner shall be submitted to the planning authority for agreement.

Reason: To ensure the adequate future maintenance of this development in the interest of residential amenity.

15. Prior to commencement of development, a comprehensive hard and soft landscaping scheme including for garden furniture and features shall be submitted to the planning authority for agreement. The site shall be landscaped in accordance with the agreed scheme, which shall also include a timescale for implementation.

Reason: In the interest of visual amenity.

16. All planting, seeding and/or turfing included in the agreed details of landscaping shall be carried out in accordance with the details agreed pursuant to condition number 15 above.

Reason: In the interest of visual amenity.

17. Prior to commencement of development, detailed structural drawings and a construction methodology statement indicating the means to ensure protection of the stability and fabric of adjoining property shall be submitted to, and agreed in writing with the planning authority. These details shall include demolition and excavation arrangements, the proposed foundation system and underpinning and method of construction.

Reason: In the interest of preserving the integrity and amenities of adjoining property.

18. Prior to commencement of development, details of all plant including plant proposed on the roof, machinery, chimneys, ducting, filters or extraction vents to be used in connection with the development and water tanks shall be submitted to, and agreed in writing with the planning authority. These shall include details of any proposed sound attenuation measures to be incorporated within such plant, machinery, chimneys, ducting, filters or extraction vents.

Reason: To safeguard the amenities of property in the vicinity.

19. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion of roads, footpaths, watermains, drains, open space and other services required in connection with the development, coupled with an agreement empowering the planning authority to apply such security or part thereof to the satisfactory completion of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be determined by An Bord Pleanála.

Reason: To ensure the satisfactory completion of the development.

20. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to the Board to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000 that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

**Member of An Bord Pleanála
duly authorised to authenticate
the seal of the Board.**

Dated this day of 2005.

An Bord Pleanala reference: PL 77. 211144

INSPECTORS REPORT

Development: Variations to previously granted planning permission for a mixed development at the corner of Connaughton Road and Ard na Greine, Sligo (Planning ref. 139/03). Development previously consisted of the clearing of existing site and the construction of office space; 27 no. apartments/townhouses (including a caretaker's apartment) whose use is to include section 50 student accommodation and social housing; a laundry room; a central storage room; substation and seminar room – all with associated car parking (including one level of enclosed parking), site services, and landscaping. The proposed variations are: omission of office space; provision of 18 no. additional apartments/townhouses (including 1 no. caretakers apartment) – bringing the total no. to 45 units, whose uses are to include Section 50 student housing/social housing; the lowering of the access deck to dwellings; revision to elevations to Connaughton Road/Ard na Greine; provision of additional storey to previously granted 2 storey blocks at deck level.

Planning Application

Planning authority : Sligo Borough Council
Planning authority Register Reference : PD 04/145
Applicant : John Molloy
Type of application : Permission
Planning Authority decision : Refuse

Planning Appeal

Appellant(s) : John Molloy
Type of appeal : Third Party
Observers : None
Date of site inspection : 26th June 2005

Inspector : Philip Green

Enclosures : Appendix 1 - annotated photographs
Appendix 2 - extracts from the
Development Plan

1.0 THE SITE

1.1 The appeal site has a stated area of 0.2426ha. and is located in central Sligo with Connaughton Road to the south and a cul de sac to the east (Ard ne Greine). This road leads via pedestrian access only to a residential area to the north. The site forms part of an overgrown area of land which rises up significantly from Connaughton Road to the north. Connaughton Road is currently one way at this point (a new traffic management system appears to be in operation in the town). Beyond this area is a playground and a residential area. The site does not have a road frontage with Holborn Street to the west and there are a number of somewhat dilapidated properties between the site and this street close to its junction with Connaughton Road. This adjacent area has been the subject of a separate application although the current appeal proposal seeks to provide parking for this adjacent development. There are two storey terraced structures further to the north along Holborn Street and on its western side. There is a car park opposite the site on the southern side of Connaughton Road.

1.2 There are commercial uses apparent in the immediate vicinity given the site's location close to the northern edge of the towns commercial core. This includes on the southern side of Connaughton Road a new office/retail unit immediately to the west of the car park.

1.3 I attach as Appendix 1 to this report photographs of the appeal site and surroundings.

2.0 THE APPLICATION

2.1 See description of development. As applied for sought permission for a split level development of two, three storey and four storeys with car parking at level 2 (60 spaces with new vehicular access onto Connaughton Road). Seven surface level spaces are shown on Connaughton Road (on Council owned lands). Scheme will provide total of 45 no. units in a mix of apartments, duplex units/ townhouses. A laundry, store and seminar room is proposed at level 2 to serve the student accommodation. The drawings show car parking spaces included for the corner site development to the west subject of a separate application. Deck open space is proposed above the car park within the scheme in the form of a landscaped courtyard. The proposed accommodation includes a number of single aspect 'back to back' style units in the centre and at the eastern end of the site. A contemporary design is proposed. Submitted with the application were a letter from the Council confirming acceptance to make the application which included lands within their control, an assessment of car parking requirements, drainage calculations and details, water supply details, examples of material finishes, barrier system to the car park, lighting details and Part V requirements (provision of units within the scheme). It was also stated in the original submission that the proposed s.50 development was not viable given the number of units previously proposed (27). An increased number of units was therefore proposed to be commercially viable. This included an increase in 18 no. units but reduction in heights along Connaughton Road at the corner and along Ard

na Greine. The deck level was also dropped by a storey to allow for development within the courtyard and minimising impact on adjoining property.

- 2.2** I would concur with the comments in the planners report that there does appear to be a number of discrepancies/omissions in the drawings lodged. This includes some internal courtyard elevations and discrepancies in opening detailing between floor plan and elevations. The report also states that there were no objections from third parties.

3.0 THE PLANNING AUTHORITY'S DECISION

- 3.1** On the 11th February 2005, the Planning Authority issued a Notification of Decision to refuse permission for the following two reasons:

(1) Having regard to the limited site curtilage and the scale of the proposed development at a density of 185 units per hectare, it is considered that the proposed development is excessive in density, having regard to the standards recommended in the Sligo and Environs Development Plan 2004 – 2010 and constitutes overdevelopment of the site. The proposed development therefore is contrary to the proper planning and sustainable development of the area.

(2) Having regard to the limited overlooking and overshadowed nature of the communal amenity areas and predominance of single aspect apartments, (m)any of which are north facing, the Planning Authority considers that the proposed development is substandard in layout and design and would provide an inadequate level of residential amenity to the proposed occupants of the apartments. The proposed development would therefore constitute a substandard form of development and contrary to the proper planning and sustainable development of the area.

3.0 PLANNING HISTORY

- 3.1** The following planning history has been brought to my attention:

- **PL 77. 210035 (4/55):** Mixed development consisting of the demolition of two no. existing houses and adjoining sheds and the construction of three and four storey building containing one no. retail unit of 505 sq.m, and 16 no. apartments all with associate site services and landscaping. Dismissed on appeal on grounds that “having regard to the nature of the appeal, which refers to development on lands not forming part of the site of the currently proposed development the Board decided that the appeal should not be further considered”.
- **PD 03/139:** Permission granted by Sligo County Council for mixed development consisting of clearing of existing site and construction of office space; 27 no. apartments/townhouses (including a caretakers apartment) whose use is to include section 50 student accommodation, and social housing; a laundry room; a central storage room, substation and seminar room – all with associated car parking (including one level of

enclosed parking), site services and landscaping. Same site as present appeal.

- **PL 77. 207171 (PD 03/156):** File referred to in Planners report for mixed use scheme consisting of 136 residential units, 12 retail units and a public house (protected structure). Permission granted by the Board subject to amendments to the scheme.

4.0 DEVELOPMENT PLAN POLICY

4.1 The site is located within the administrative area of Sligo Borough Council wherein the provisions of the Sligo Town and Environs Development Plan 2004 – 2010 apply. On Map 22 of that Plan the site falls within an area zoned C2 Commercial and Mixed Uses. A residential (apartment) development is considered to be permitted in principle subject to the normal planning process including the policies and objectives outlined in the Plan.

4.2 On Map 21 of the Plan the site is also identified as part of an area having Urban Renewal and Regeneration Objective UR4 “to continue to promote the renewal and regeneration of sites identified on the Urban Renewal Maps 14, 14.1 and 14.2.

4.3 The Development Plan identifies a need for a variety of housing types and densities. In section 2.7.8 a high priority is given to locating residential development within the existing city core and utilising brownfield sites. It also seeks to encourage excellence and innovation in the location and design of new residential development that reflects the principles of environmental sustainability. Apartment development and higher densities are promoted in the city centre (C1) and mixed use development zones (C2 and C3). Lands will be reserved for student accommodation.

4.4 I attach as Appendix 2 to this report extracts from the Development Plan.

5.0 THE APPEAL

5.1 This is a Third Party appeal lodged against the Notification of Decision of the Sligo Borough Council to refuse permission. The matters raised in the grounds of appeal include:

- Council wish for site to be developed in conjunction with PD 04/55 owned by Appellant. Both sites would be developed together if permission for this development was granted. Both developments are linked for access and car parking and condition 5 of 04/55 requires 39 no. parking spaces on this site to serve that development. In all social housing provisions the two sites have been dealt with as one;
- Combined sites total 0.4605 ha. Total units proposed for both sites is 61 giving density of 150 units per hectare as opposed to that quoted in Notification of Decision;
- Amended proposals attached omitting six no. single aspect units to east of site reducing density on site to 160 units per hectare, enlarges the open

space and courtyards and allows Ard ne Greine units to become dual aspect;

- Whilst this density is still high this is an appropriate town centre location for such densities. It is noted that specified densities in the Development Plan only apply to residentially zoned lands;
- Plot ratio for the area is specified as 1 to 2.5. With 45 units scheme is 1.29. In theory additional floor area could be added for a wholly commercial development;
- There is scope in development plan for higher densities given appropriate approach to open spaces, design and urban space. A density of at least 50 units per hectare is accepted for apartment development where feasible;
- Revised scheme proposes 39 units and omits six single aspect units and allows further four to become dual aspect. Remaining single aspect either face south or onto landscaped courtyards. South facing windows have been added to the rear of north facing dwellings;
- Single aspect apartments are relatively shallow in plan with large glazed openings;
- Open spaces will be extremely high standard with quality landscaping, paving, lighting, and furniture. Despite northerly aspect it would function well. Photographs of similar existing scheme in Dun Aengus, Galway docks attached.

6.0 PLANNING AUTHORITY'S RESPONSE TO THE GROUNDS OF APPEAL

6.1 The Planning Authority has not responded to the grounds of appeal.

7.0 ASSESSMENT AND RECOMMENDATION

7.1 In my opinion, the main issues to be considered in this case are the principle of the development, density and layout of the development and consequent amenities enjoyed and access and car parking provisions.

7.2 Having regard to the zoning of the site and its location within Sligo Town I consider that the principle of a residential scheme can be supported on the site. I also consider that it would, in principle, also be in accordance with the objectives in the Development Plan to promote apartment development in the city centre.

7.3 The Board will note the UR4 urban regeneration objectives for this site as part of a wider area of land. In particular this current site would not utilise all the UR4 lands between Connaughton Road and the playground to the north. However I note that this was not an objection raised by the Planning Authority. This to my mind (along with the separate application to the west) indicates somewhat of a piecemeal approach to the regeneration of this area. Nevertheless, it is not a regeneration area zoned UR5 where a development brief or action area plan is to be prepared. I do not therefore raise objections on this issue. In regard to this neighbouring land to the north the Board might wish to review its file PL 77. 210035 although the Appellant in that case has not now objected to the current appeal proposal.

- 7.4 I consider that there are some difficulties in interpretation of the proposed development due to the discrepancies and omissions in the drawings lodged. The Board may wish to consider whether it wishes to seek clarification and complete details prior to determining the appeal. My assessment of the proposals are however based on the material now available to me.
- 7.5 I would have sympathy with the reasons for refusal cited by the Planning Authority. I would accept the argument that the density of the scheme as originally proposed to the Planning Authority was high and that this was reflected in the form of development with proximity of blocks, narrow and unattractive intervening spaces and the number of single aspect units. This has to only a limited degree been addressed by the Applicant in the grounds of appeal and amended drawings lodged which propose the omission of six no. single aspect units. I consider that the resultant scheme albeit an improvement still to be unacceptable in these respects. I consider that a further minimum requirement would be that apartment units 22, 23, 30, 31 and 32 be omitted from the development entirely. This would still result in 34 units on a site area of 0.2426ha. giving a high density of some 140 units per hectare although I consider the overall layout and relationship of buildings would be improved.
- 7.7 Although there are discrepancies on the drawings it would appear that single aspect units would be retained fronting onto Connaughton Road (units 1 to 7) although these would have a south facing orientation. They are provided with a small amenity area to the front although there would appear to be no immediate access from these units to the internal landscaped courtyard at level 3. Although unclear due to discrepancies between floor plans and elevations Units 8 to 15 would appear to be dual aspect. Units 24 to 29 in the centre of the courtyard would be 'back to back' single aspect units although facing east and west out across the landscaped courtyard. On balance and although not ideal I consider that the overall scheme and these retained elements with the omission of units as proposed by the First Party in the grounds of appeal and my suggestion above to be acceptable.
- 7.8 Neither access to the site or car parking was raised as a reason for refusal by the Planning Authority. I draw the board's attention to the comments of the Senior Executive Engineer – Roads dated 21st December 2004. Amongst the items requested is a traffic impact assessment (prior to commencement of development) although its absence is not cited as a fundamental reason for objecting to the proposed development. I also consider that the issue of the access into the site and ensuring vehicle movements do not obstruct the flow of traffic on Connaughton Road can be dealt with by condition. The Board should note that the scheme makes provision for 60 spaces including 29 proposed for the adjoining development. This was required by condition 5 of PD 04/55. I consider the level of parking provision to serve the scheme as suggested to be amended to be adequate.
- 7.9 I have considered all the other matters raised but it seems to me that they are no so material to the consideration of the merits of this case to warrant

reaching a different recommendation to that set out below. In conclusion I recommend that permission be granted subject to amending conditions.

REASONS AND CONSIDERATIONS

Having regard to the provisions of the current Sligo and Environs Development Plan and the zoning of the site, the provisions of the DOELG (1999) Residential Density Guidelines for Planning Authorities and the pattern of existing and permitted development in the vicinity it is considered that subject to compliance with the conditions set out below, the proposed development would not constitute a sub standard form of development or over-development of the site and would not seriously injure the amenities of the area or of property in the vicinity. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

CONDITIONS

1. The development shall be carried out in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars received by An Bord Pleanala on the 3rd March 2005 except as may otherwise be required in order to comply with the following conditions.

Reason: In the interest of clarity.

2. Prior to commencement of development, revised details and drawings including a complete set of accurate drawings showing consistency in site layout plans, plans and elevations of the proposed development and site sections and incorporating the following additions and amendments into the proposed development shall be submitted to, and agreed in writing by, the planning authority:
 - (a) Omission of the six no. single aspect units as proposed in First Party grounds of appeal submissions as received by An Bord Pleanala on the 3rd March 2005.
 - (b) Omission of Unit Nos 22, 23, 30, 31 and 32 and incorporation of resultant area into the proposed landscaped courtyard.

Reason: In the interests of the amenities of the area and the amenities of the potential occupiers of the development.

3. Prior to commencement of development, details of the materials, colours and textures of all the external finishes to the proposed development and its hardsurfaces shall be submitted to, and agreed in writing by, the Planning authority.

Reason: In the interest of orderly development and the visual amenities of the area.

4. All service cables associated with the proposed development, (such as electrical, communal television, telephone and public lighting cables) shall be run underground within the site.

Reason: In the interest of orderly development and the visual amenities of the development.

5. Prior to commencement of development, detailed drawings including sections showing all finished floor levels in relation to existing and proposed ground levels of both the site and the surrounding land and buildings shall be submitted to, and agreed in writing by, the Planning Authority.

Reason: In the interests of orderly development and to ensure a satisfactory relationship between the various components of the development and between the site and surrounding land and buildings.

6. Prior to commencement of development, a construction management plan including detailed phasing of the works shall be submitted and agreed in writing with the planning authority, which shall include a construction programme for works, hours of operation, a traffic management plan, noise and dust mitigation measures, wheel washing facilities and details of construction lighting.

Reason: In the interest of protection of the environment and the amenities of the area.

7. Prior to commencement of development, full details including height, appearance and materials of all the means of enclosure and retaining walls to be erected around and within the site shall be submitted to and agreed in writing by, the planning authority. In particular this shall include details of the boundary treatment of the northern boundary of the site.

Reason: In the interests of visual and residential amenity and the amenities of adjoining lands.

8. Water supply and drainage arrangements including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services and details of which shall have been submitted to, and agreed in writing by, the Planning Authority prior to commencement of development.

Reason: In the interests of orderly development and the proper planning and sustainable development of the area.

9. Prior to commencement of development, the developer shall submit, and obtain the written agreement of the Planning Authority, to a plan containing details for the management of waste (and in particular, recyclable materials)

within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials, and for the ongoing operation of these facilities.

Reason: To provide for the appropriate management of waste and, in particular recyclable materials, in the interests of protecting the environment.

10. Within eight weeks of the date of this Order, the developer shall enter into an agreement with the Planning Authority under Section 96 of the Planning and Development act, 2000 (as amended) in relation to the provision of social and affordable housing, in accordance with the requirements of the Planning Authority's Housing Strategy, unless, before the expiry of that period, the said developer shall have applied for and been granted an Exemption Certificate under Section 97 of the Planning and Development act 2000.

Reason: To comply with the requirements of Part V of the Planning and Development Act, 2000 as amended.

11. Public lighting shall be provided in accordance with a scheme, details of which shall be submitted to, and agreed in writing by, the Planning authority prior to commencement of development.

Reason: In the interest if amenity and public safety.

12. Prior to the commencement of development, full details of the construction and layout of the proposed new access onto the Connaughton Road and the layout of the site's frontage with this road including proposals for off street parking shall be submitted to, and agreed in writing by, the Planning Authority. These details shall include provisions for ensuring that vehicles can enter and exit the site without obstruction to the flow of traffic on Connaughton Road.

Reason: In the interests of traffic and pedestrian safety.

13. Prior to the commencement of development, a parking scheme shall be submitted to, and agreed in writing by, the Planning Authority demonstrating the allocation of parking spaces within the scheme to specific units including measures proposed to prevent unauthorised parking. Furthermore the scheme shall provide for the 29 car parking spaces required for the site immediately to the west pursuant to condition 5 of planning register reference 04/55.

Reason: To ensure adequate parking provision is available to serve the proposed and adjoining development in the interests of the amenities of the proposed occupiers of these developments and traffic safety.

14. Prior to occupation of any part of the development, a management scheme providing adequate measures relating to the future maintenance of open spaces, roads, parking and communal areas in a satisfactory manner shall be submitted to the planning authority for agreement.

Reason: To ensure the adequate future maintenance of this development in the interest of residential amenity.

15. Prior to commencement of development, a comprehensive hard and soft landscaping scheme including for garden furniture and features shall be submitted to the planning authority for agreement. This scheme shall include details of all existing trees and hedgerows on the site, specifying those proposed for retention, together with measures for their protection during the period in which the development is carried out. The site shall be landscaped in accordance with the agreed scheme, which shall also include a timescale for implementation.

Reason: In the interest of visual amenity.

16. All planting, seeding and/or turfing comprised in the agreed details of landscaping shall be carried out in accordance with the details agreed pursuant to conditions 15 above. Any trees or plants which die within a period of five years from the completion of the development, are removed or become seriously damaged or diseased, shall be replaced in the first available planting season with others of a similar size and species, unless the Planning Authority gives prior written agreement to any variation.

Reason: In the interest of visual amenity.

17. Prior to commencement of development, detailed structural drawings and a construction methodology statement indicating the means to ensure for the protection of the structural stability and fabric of adjoining property shall be submitted to, and agreed in writing by, the Planning Authority. These details shall include demolition and excavation arrangements, the proposed foundation system and underpinning and method of construction.

Reason: In the interests preserving the integrity and amenities of adjoining property.

18. Prior to commencement of development, details of all plant including plant proposed on the roof, machinery, chimneys, ducting, filters or extraction vents to be used in connection with the development and water tanks shall be submitted to, and agreed in writing by, the planning authority. These shall include details of any proposed sound attenuation measures to be incorporated within such plant, machinery, chimneys, ducting, filters or extraction vents.

Reason: To safeguard the amenities of property in the vicinity.

19. Prior to commencement of development, the developer shall lodge with the Planning Authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion and maintenance until taken in charge by the Planning Authority of roads, footpaths watermains, drains, public open space and other services required in connection with the development, coupled with an agreement empowering the Planning Authority to apply such security or part thereof to the satisfactory

completion or maintenance of any part of the development. The form and amount of the security shall be as agreed between the Planning Authority and the developer or, in default of agreement, shall be determined by An Bord Pleanala.

Reason: To ensure the satisfactory completion of the development.

20. The developer shall pay to the Planning Authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the Planning Authority that is provided or is intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution scheme made under section 48 of the Planning and Development Act 2000. Details of the application of the terms of the Scheme shall be agreed between the Planning authority and the developer or, in default of such agreement, the matter shall be referred to the Board to determine the proper application of the terms of the scheme.

Reason: It is a requirement of the Planning and Development Act 2000 that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

Philip Green
Senior Planning Inspector

30th June 2005

**Comhairle
Chontae
Shligeach.**

Cois Abhainn, Sligeach.



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**Sligo
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Riverside, Sligo.

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